5/027/074

Unique Minerals Inc 1359 Park Street, Salt Lake City UT 84105

January 6, 2001

Mr Tom Munson
Senior Reclamation Specialist
Department of Oil Gas, & Mining
State of Utah

RECEIVED
JAN 11 2001
DIV. OF OIL, GAS & MINING

Dear Tom,

Hope you are having a good new year. I have tried to reach you and Joelle office the last several days by phone. The lines either are busy, or no answer. I know you are all up to your ears in work.

I decided to send you this fax to see if you could give me a little information.

My question is: Do you have any information on Don Smith and Marian Smith of 549 West, 5510 South, Murray Utah 84123? Mr Smith claims to have been taking minerals from federal land since 1951. Don Smith has a record of non compliance which was placed on him on October 3, 1997 RE: 3800 (U-0551) UTU-075852 . This was for failure to file a plan of operation, and for failure to reclaim. On Thursday Jan 4, 2001 I encountered him in a restaurant. He told me he still is "poaching" and selling material from Township 17 S Range 13 E. He has been in and out of claims for 50 years, but I have doubts he ever filed plans of operations, and I believe he has taken mostly small loads of material, except when he was caught by BLM and hit with the RON.

One last question is: What does a claimant have when only a "Notice of Location" is filed at the county level. Nothing is done after that. I know the notices expire in 90 days if not filed at BLM. My opinion is: Since the county does not own federal land a filed county notice cannot be a perfected claim until filing is done at the BLM level. In essence a claimant has nothing until he files at BLM. If you don't have the answer to that could you tell me where to research to find the answer? The County Recorder at Millard County told me to look into the Utah Statutes. That doesn't make total sense to me since it concerns federal land. Your department is state run, but attends to reclamation. As you can see, I am still a greenhorn at all this. Any help would be highly appreciated.

Thanks again for all the help you and Joelle have been in the past. I hope you all the best in the new year.

Sincerely Richard Stone

Phone-Fax-Message (801) 466-2006 Cellular: (801) 599-3209

5/027/074

BLM - UT - 950

2000 DEC 18 PM 1:48

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DEC 18 2000
FIELD SOLICITOR
SALT LAKE CITY, UTAH

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22203

RECEIVED
JAN 11 2001
DIV. OF OIL, GAS & MINING

CONSOLIDATED APPELLANTS	:	**IBLA 2000-249, 2000-251, 2000-355**
Mr. Richard Stone, Agent for Unique Minerals, Inc. 1359 Park Street Salt Lake City, Utah 84105 801 466-2006	:	**UTU 078273** **UTU 078275**
Jerome Gatto, Agent for Cambrillic Natural Stone, LLC 1730 South 1100 East Salt Lake City, Utah 84105 801 596-2600	:	
v.	:	
BUREAU OF LAND MANAGEMENT **FILLMORE FIELD OFFICE**	:	**MOTION FOR ENTRY OF** **DEFAULT AND JUDGEMENT**
Respondent	:	


RECEIVED
APR 17 2001
DIV. OF OIL, GAS & MINING

On August 29, 2000, Consolidated Appellants received a document from the Interior Board of Land Appeals 4015 Wilson Avenue Arlington Virginia.

STATEMENT OF FACTS AND EXHIBITS THAT SUPPORT THIS MOTION.

1. This document was a document respected by Consolidated Appellants and was duly named "Order." **Exhibit A of this Motion, attached hereto and made a part hereof.**

2. This was not an opinion of the Court, nor was it a meaningless narrative, it was an "Order."

3. Realizing the importance of this Order, Consolidated Appellants, respecting the Court, and preserving the remedies of Consolidated Appellants followed this "Order", to the letter.

4. An integral part of this Order, is Page 9, paragraphs 2, 3, and 4, and the first paragraph of Page 10. This segment of the Order is labeled on the front of the Order, "Production and Briefing Schedule Established."

5. To Consolidated Appellants, this has meant the precise instructions necessary for all parties to follow. It is again an integral part of the Order.

6. In order to be in strict compliance, Consolidated Appellants, dissected Page 9, paragraphs 2,3, and 4 and the first paragraph of page 10 in order to be absolutely sure the Consolidated Appellants would be in compliance.

7. **Exhibit B, of this Motion,** attached hereto and made a part hereof, are two (2) dissections of that part of the Order. Consolidated Appellants **outlined in detail how the production schedule must be followed.**

8. Consolidated Appellants now refer this Court to these two (2) dissections. It is noted and documented by the Order and these two dissections, that the Respondents never complied with the Order **and are in absolute default of this Order.**

Respondent under the time frame of the Order, did not, in any manner, answer the Consolidated Appellants, now or in any of the time frames outlined in the Order.

9. Consolidated Appellants now refers this Court, to **Exhibit C, of this Motion, two (2) pages,** attached hereto and made a part hereof, titled **Proof of Service, Appeals-Motions.**

The Court can readily surmise that Consolidated Appellants, filed in the proper time frame as evidenced by the Certified Receipt Numbers and the hand-delivered stamped receipts, received by this Court and all Adverse Parties.

10. Exhibit D, of this Motion, attached hereto and made a part hereof is the outlined of the four appeals before this Court.

It should be noted that each adverse party received a complete 2 inch binder of each of these 04 appeals, of the Consolidated Appellants, before this Court. The binder received by each adverse party was the IDENTICAL BINDER submitted to this Court.

These appeals included the pictures, videos, and summary substantiating the posture of appellant, and ALL APPEALS, were filed in a timely manner, per the instructions of the Court.

11. Consolidated Appellants asks this Court, upon reviewing Exhibit C, to empathize with Consolidated Appellants, in the fact that is has been a very long time for Consolidated Appellants to suffer from a loss of income, lost customers, and key employees who have gone on to other endeavors because of the ignominious attitude of Respondents in not compiling with the Order.

The dates included in this Exhibit are devastating in terms of the financial suffering of Consolidated Appellants. Note: **1. July 29, 1999. 2.June 4, 2000 3. August 3, 2000, 4. August 29, 2000. It is now the month of December 2000.**

12. To further stifle the business of Consolidated Appellants, Respondents have ignored, purposely and with malice, have not addressed, 04 Appeals, and 06 Motions before this Court, itemized in **Exhibit E, of this Motion, attached hereto and made a part hereof.**

13. These motions are vital to Consolidated Appellants and no response in any manner by Respondents. No request for additional time by Respondents. Nothing. Just the blatant ignoring of the Order of this Court.

14. In the Order of August 29, 2000, this Court quotes Consolidated Appellants contention, on page 4, paragraph 4, and page 5, paragraph 1.

> "The Spectrum Quarry has been held under legal claims , and has been mined as "uncommon materials' for nearly 40 years. Our Group Claimants has tested the market and has sold this material for $ 650.00 per ton for the decorative stone. That makes 998.5 tons taken worth $ 649, 025.00 *** (for) which (appellant's # 16 claimants are entitled to triple damages under the law. That amounts to $ 1,947, 075.00 of damage to (appellant). In additional to the removal of (appellant's) property, Levin Stone has caused substantial damage to the quarry running over and breaking valuable pieces of mineral slabs, and by heaping waste on top of the ore deposits."

15. Consolidated Appellants now refer the Court to its Order of August 29, 2000, and quotes in part, paragraph 1, page 2.

> " In 1992, in response to a Plan of Operations having been filed by Baron Trading Corp., another mineral report was prepared that was inconclusive, and the author recommended a validity exam be conducted should production continue."

This information was supplied to the Court by Respondent, and seems to infer that the validity exam was something that Respondent devised in 1992. Consolidated Appellants have consistently argued that 8 Eight Years to develop a validity exam is derisive, fraudulent, and merely a stalling tactic.

Consolidated Appellants contend that the purpose of Respondent is to attempt to produce a **contrived, tailored, validity exam that will support their erroneous contention that the stone is common.**

The actions of the Respondent are more than egregious. Consolidated Appellants now refers this Court to **Exhibit F of this Motion, attached hereto and made a part hereof.**

A Staff Report signed by Gerald R. Muhlestein, of the Bureau of Land Management Office, Fillmore Utah.

DATED MAY 23, 1977.

Consolidated Appellant quotes in part of this Exhibit F, paragraph 4.

> " I ask Jerry about this and he suggested that if $ 100 profit can be shown then the stone is not common, so it would be locatable. I got the feeling from Jerry that we have very little to do with this type of mining operation and it would be best **if the mineral pattern process was pursued."**

Consolidated Appellant contends that this document, was **purposely hidden** from the Court. It is **not in the last 8 years they discussed a validity exam, but rather:**

23 years:

This is another document signed by the Respondent, stating the stone is uncommon. Exhibit F goes further and states,

> "it would be best if the mineral pattern process was pursued".

16. Consolidated Appellant again refers in part of this Court Order of August 29, 2000, Page 6 paragraph 1.

> " appellant's expert evidence tends to support the conclusion that the stone is unique, although we reach no conclusion at this juncture as to whether the stone is locatable. We note however, that the BLM Mineral Reports submitted by Unique demonstrate opposing conclusions regarding whether the stone is locatable, and it appears from the EA that BLM **has done nothing further to finally resolve the question."**

Appellant now refers this Court **back** to Exhibit C of this Motion. The Court should note that on September 25, 26, 2000: **That:**

This Court and all adverse parties received in binders the Expert Reports, labeled outlining each expert followed by their detailed reports proving the stone is uncommon.

Consolidated Appellants followed the last sentence of the Court Order of August 29, 2000, order, page 6, **to the letter ordered by this Court.**

> "Appellant would be well-served by submitting a properly assembled and labeled set of the private expert opinions on which it intends to rely."

17. Consolidated Appellants now refer this Court to **Exhibit G, of this motion, attached hereto and made a part hereof.**

This Exhibit comprises 11 pages. The first page is titled "BLM Calendar of Events", the next 10 pages comprise the Legal Calendar concerning this matter before the Court.

The calendar of events illustrate the frustrations of Consolidated Appellants, to mine their locatable claims. June 10, 1999, was the date Mr. Rowley, of the Fillmore Office, recorded the record of noncompliance against Mr. Pappas.

The rest of the year 1999, refers to the appeals filed by Consolidated Appellants and the correspondence dates through November 18, 1999.

Beginning in the year 2000, Notice that the dates February 14, and February 23, 2000, are indented to the right of this calendar.These are the dates the Fillmore Office initiated the illegal rock sale, **without** notice to the Consolidated Appellants.

The other dates are correspondence, and **two dates represent meetings. Two meetings. One April 7, 2000 in the office of the Solicitor, and May 12, in the BLM Office in Fillmore. A deliberate ruse.**

The next 10 pages, of Exhibit G,comprise the legal calendar of this matter.

Notice it stopped on October 20, 2000, nothing from Respondents, no observance by Respondent to the requirements of the Court Order of August 29, 2000.

Consolidated Appellants now refer this Court to **Exhibit H, of this motion, attached hereto and made a part hereof.**

This is a letter dated April 11, 2000, and has been previously cited in the former appeals of Consolidated Appellants.

The Court will take notice of Exhibit G above, and can see the frustration, of Consolidated Appellants, and the time and money expended by Consolidated Appellants to begin mining.

Notice this Exhibit H. Respondents admit that some of the claims of Consolidated Appellants are "Grandfathered".

Yet, they state in this Exhibit, that we must rescind the appeal of July 29, 1999, AS A CONDITION OF BEING ALLOWED TO MINE, then post a bond, escrow account etc, which by doing so we would acquiesce to the illegal concept of common stone. Our claims are locatable.

The definition of Grandfathered, is explicit.

" A PROVISION EXEMPTING PERSONS OR OTHER ENTITIES ALREADY ENGAGED IN ACTIVITY FROM RULE OR LEGISLATION AFFECTING THAT ACTIVITY."

It is fitting that Consolidated Appellants now refers this Court **to Exhibit I of this Motion, attached hereto and made a part hereof.** This document has been previously included in the previous appeals of Consolidated Appellants, however two sentences of the letter from Senator Bennett, to then BLM Director Bill Lamb, dated January 9, 1997,is appropriate at this time.

" I am somewhat confused by what has happened in this situation. It certainly appears as if the rules have changed in the middle of the game for Mr. Cheney."

CONCLUSION

A. Consolidated Appellants have provided Exhibits A, B, C, D, E, F, G, H, and I, as integral parts of this Motion.

B. These Motions substantiate the previous recorded pleading of the Consolidated Appellants

C. Exhibit F of this Motion, further proves that the concept of common stone is unfounded, concerning the locatable claims of Consolidated Appellants.

This Exhibit again, illustrates, **by their own employees,** that the stone is uncommon. Respondents cannot, by ignoring the Court, wait until they can produce a validity exam, contrived to their needs. Our Expert Testimony before this Court, is incontrovertible.

D. Consolidate Appellants have, by the evidence, produced a factual finding that the Respondents are in default, **because by their inaction,** have admitted all pleaded allegations of the Consolidated Appellants.

E. Consolidated Appellants refers this Court to Rule 55 for consideration, of the Federal Rules of Civil Procedure, in part:

> "**Default**: (a) When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default."

F. Consolidated Appellants states this Motion constitutes our "affidavit or otherwise", as just quoted previously.

G. Continuing the excerpts from Rule 55, Consolidated Appellant offers the key ingredient against Respondents:

"failed to plead or otherwise defend."

H. Even if the burden of proof rested with the Consolidated Appellants, Consolidated Appellants have proven that the stone is uncommon. This is with the understanding that the **Respondent First**, establish a prima-facie case, which they did not. **For this Court to accept any motions, or concocted validity exam , now or in the future would be a travesty of justice. The Respondents have defaulted.** Consolidated Appellants shudder to think what would have happened to the case of Consolidated Appellants if we had missed **one** production schedule date.

Respondents filed **two motions, in this entire proceeding, and one was for an extension of time, which is insulting to Consolidated Appellants and should be to this Court.**

Consolidated Appellants have expended a great deal of time and money, since July 29, 1999, on these legal matters, and as stated previously in this Motion, lost a minimum of Seven Hundred Thousand Dollars, ($ 700,000.00) in lost revenues and customer abandonment.

I. Consolidated Appellants have examined in detail these proceedings, and again studying Rule 55, assert that a default **cannot** be set aside in these proceedings.

> **"Entry of default is an interlocutory order, from which an immediate appeal ordinarily cannot be taken."**

J. Consolidated Appellants now refer to the prerequisites concerning this default and quotes Rule 55 in part concerning a legal judgment against the Bureau of Land Management, et.al.,

Prerequisites:

> **" The party against whom the default is entered must have been properly served with process, and the district court must enjoy subject matter jurisdiction and either personal or quasi-in-rem/in rem jurisdiction over the defaulting party. The clerk must be satisfied , by the moving party's affidavit or otherwise that the defaulting party has failed to plead or otherwise defend."**

> **" No judgment by default shall be entered against the United States or an officer or agency thereof unless the claimant establishes a claim or right to relief by evidence satisfactory to the court.:"**

Consolidated Appellants assert that they have, with the motions, and appeals before this Court, and fortified by the fraudulent documented actions of the Respondents **have** established a claim by satisfactory evidence in the possession of this Court, to be afforded a judgment against the Bureau of Land Management in the following manner: Consolidated Appellants and this Court know that all the prerequisites of this case have been met for default against Respondents.

Consolidated Appellants therefore moves this Court based on the irrefutable evidence to:

1. Rule that the stone of the Consolidated Appellants, including their irrevocable claims to the Spectrum Quarry are locatable Uncommon Stone.

2. Enter Default Judgements in favor of Consolidated Appellants By:

(a) Enter a default judgment in the amount of One Million Nine Hundred and Forty Seven Thousand Dollars, ($ 1,947,075.00) against all persons as employees and individuals of the Fillmore Office and the Office of the State Director of the Bureau of Land Management, in favor of Consolidated Appellants.

(b) Enter a default judgment against Levin Stone Inc. in the amount of Seven Hundred Thousand Dollars ($ 700,000.00), in favor of Consolidated Appellants. **An additional basis for this judgement is that this Court , Page 4 of the Court Order, in part, "(Levin Stone) filed a letter, which we treat as a motion to intervene."** The stolen stone in the possession of Levin Stone is egregious.

(c) Order immediate Sanctions against the Office of the Solicitor for blatantly ignoring and not answering Consolidated Appellants, or this Court causing Consolidated Appellants personal and financial harm for over eighteen months. This is a blatant premeditated action by Respondent to delay and deny Consolidated Appellants of due process.

In order to further cease continual legal proceedings and to minimize the funds that will continue to be expended in order to accomplish a just result, it is suggested to this Court, that this Court, present all the claims of Consolidated Appellants to Patent, pursuant to 43 C.F.R. 3860.

Consolidated Appellants are cognizant of the fact that the Secretary of Interior must finalize such patent. However, based on all the pleadings of Consolidated Appellants thus far, the Secretary may agree that to issue patents to Consolidated Appellants would be the final disposition of this matter, and cost effective.

Respectfully Submitted
This 18th Day of December 2000

Jerome C. Gatto

Jerome Gatto,
For Cambrillic Natural Stone L.L.C

Richard Stone

Richard Stone
For Unique Minerals, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2000, I caused **Motion for Entry of Default** to be mailed certified, prepaid, and hand delivered to the court and all adverse parties in the following manner.

Rex Rowley
Field Manager
United States Department of the Interior
Bureau of Land Management
Fillmore Field Office
35 East 500 North
Fillmore, Utah 84631
Certified Mail

Utah State Office
Utah State Director
Bureau of Land Management
324 South State Street
Suite 301
Salt Lake City, Utah 84145
Hand Delivered

Regional Solicitor
Office of the Solicitor
Suite 6201, Federal Building
125 South State Street
Salt Lake City, Utah 84138
Hand Delivered

Levin Stone
P.O. Box 95
Ash Fork, AZ 86320
Certified Mail

United States Department of the Interior
Office of the Secretary
Board Land of Appeals
4015 Wilson Blvd.
Arlington, Virginia 22203
Certified Mail

Jerome C. Gatto

Jerome Gatto, Manager Cambrillic Natural Stone, LLC

Richard Stone

Richard Stone, Resident Agent/Secretary of Unique Minerals, Inc.

EXHIBIT
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A

United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
Interior Board of Land Appeals
4015 Wilson Boulevard
Arlington, Virginia 22203

IN REPLY REFER TO:

AUG 29 2000

CERTIFIED

IBLA 2000-249, 2000-251	:	UTU-078273
	:	
CAMBRILLIC NATURAL STONE, L.L.C.	:	Building Stone Sale
	:	
UNIQUE MINERALS, L.L.C.	:	Stay Granted; Motion to Intervene Granted; Request for Expedited Consideration Taken Under Advisement; Production and Briefing Schedule Established.

ORDER

Unique Minerals, Inc. (Unique or appellant), through Richard Stone, resident agent, has timely appealed an April 13, 2000, decision of the Fillmore Field Office, Utah, Bureau of Land Management, and has requested a stay pursuant to 43 C.F.R. § 4.21. The decision states only that a 1000-ton rock sale at the Spectrum Quarry in section 23, T. 17 S., R. 13 W., has been approved and will affect one of Unique's mining claims, the Unique Minerals #16, UMC 365063. The Antelope Mountain Building Stone Environmental Assessment, # J-010-000-038TR, dated April 4, 2000 (EA), was enclosed with the decision. Thus, the facts of the case, BLM's analysis and conclusions are to be found exclusively in the EA:1/

1/ Appellant was entitled to a reasoned and factual explanation in the decision which provides a basis for understanding and accepting the decision or, alternatively, for appealing and disputing it before the Board. The Navajo Nation, 150 IBLA 83, 88 (1999); The Pittsburg & Midway Coal Mining Co. v. OSM, 140 IBLA 105, 109 (1997); U.S. Oil and Refining Co., 137 IBLA 223, 232 (1996); The Klamath Tribes, 136 IBLA 17, 20 (1996); Larry Brown & Associates, 133 IBLA 202, 205 (1995); Eddleman Community Property Trust, 106 IBLA 376, 377 (1989). The lack of

EXHIBIT A

The Spectrum Quarry was opened up over 40 years ago for the extraction of building stone. Mining claims were located on the site in 1958, after a mineral report completed by Eugene H. Pearson found the material to be locatable. His conclusion was based on the fact the stone had been used in one house and was being sold by one stoneyard (which by 1992, was no longer selling the stone) and was being used in prefab stone panels in another stoneyard. There was sporadic mining of the stone for the next 25 years, during which time further case law defining common varieties was developed and other BLM personnel expressed doubts that the stone was locatable. In 1992, in response to a Plan of Operations having been filed by Baron Trading Corp., another mineral report was prepared that was inconclusive, and the author recommended a validity exam be conducted should production continue. Baron Trading filed for bankruptcy after having only extracted 100 tons of material over a one-year period.

An Environmental Assessment * * * was prepared for the Baron Trading Plan of Operations. There was a finding of no significant impact made, and a decision signed to allow the operation. By that time, Baron Trading was all but shutdown, no bond was ever filed, and no activity took place under the plan.

On September 30, 1996, a Plan of Operations (later withdrawn) was filed by Capital Markets Group, which prompted the BLM to begin a validity exam on the claims. On May 16, 1997, a Community Pit (UTU-063420) was established over the site to protect the BLM's right to sell the product should the validity exam find the claims invalid. On September 15, 1998, Unique Minerals located a placer claim over the site, and on

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explanation in the decision is magnified by the failure to provide the case file or to enclose a copy of the EA in the few papers that were transmitted to the Board by BLM.

EXHIBIT A

August 27, 1999, Cambrillic Natural Stone located two placer claims over the quarry. All three claims are superseded by the Community Pit, and the BLM has a superior right over those claimants to remove the material.

No Small Miner's Exemption, or Rental Fee was submitted to the BLM for the 1958 claims as of the August 31, 1999 deadline, and they were declared abandoned as of September 1, 1999. The validity exam had not been completed; the claimant died before supplying any production or market information. The BLM began exercising its superior right to sell the material, and has thus far sold a 400 ton sample to Levin Stone, who has applied for the current sale.

(EA at 2.) As to the proposed 1000-ton rock sale, BLM states that approximately four acres would be disturbed, and that two of the four acres are within the quarry and had been disturbed previously, while the other two acres are to the north of the quarry, in a flat area devoid of vegetation. (EA at 2-3.)

Unique's May 11, 2000, filing is captioned "Notice of Appeal and Petition for Stay"(NA/Stay), although it made no showing in this pleading to support the requested stay based on the factors identified in 43 C.F.R. § 4.21(b). Unique asserted only that "the regulations in form 1842-1 state that we have 30 days from the date of this appeal to state the reasons for our objections to proposal 3600 (U-010)UTU-07822273."

Unique's statement is true with respect to statements of reasons for appeal, but an appellant seeking a stay pursuant to 43 C.F.R. § 4.21(b) nonetheless is required to show justification for the granting of the stay based on the following factors: (1) The relative harm to the parties if the stay is granted or denied; (2) the likelihood of the appellant's success on the merits; (3) the likelihood of immediate and irreparable harm if the stay is not granted; and (4) whether the public interest favors granting the stay. These factors have long been recognized by this Board in determining whether a stay should be granted. London Bridge Broadcasting, Inc., 130 IBLA 73, 75

EXHIBIT A

(1994); Jan Wroncy, 124 IBLA 150, 152 (1992). The appellant requesting the stay bears the burden of proving entitlement. London Bridge Broadcasting Inc., supra at 76; Pauline Esteves, 139 IBLA 152, 153 (1997); In re Eastside Salvage Timber Sale, 128 IBLA 114, 115 (1993). On May 25, 2000, BLM filed its response to Unique's petition for a stay, arguing that appellant had failed to make the requisite showing.

On June 7, 2000, appellant filed an extensive statement of reasons (SOR) addressing the factors justifying a stay. On June 9, 2000, Levin Stone Co., Inc. (Levin Stone), the material sale permittee, filed a letter alleging that the petition for stay has caused a "business loss" for the company, which we treat as a motion to intervene. Because Levin Stone is potentially adversely affected by a decision in this appeal, that motion is granted.2/

The EA transmitted to Unique with BLM's decision was not submitted to this Board by appellant with its NA/Stay. However, with its SOR, appellant filed a number of indexed documents which appear to be at least part of BLM's administrative record, including a copy of the EA. As to the minerals embraced by appellant's #16 mining claim, a part of which is within the boundaries of the community pit, Unique maintains that it is an uncommon variety of building stone subject to location and disposition under the mining laws and not subject to disposal under the community pit designation pursuant to the Materials Act, 30 U.S.C. § 601 (1994). See also 43 C.F.R. § 3600.0-5(e),(g). More specifically, appellant contends:

> The Spectrum Quarry has been held under legal claims, and has been mined as "uncommon materials" for nearly 40 years. Our group of claimants has tested the market and has sold this material for $650.00 per ton for the decorative stone. That makes the 998.5 tons

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2/ In the appeal of Cambrillic Natural Stone, L.L.C. (Cambrillic), IBLA 2000-249, a rival mining claimant, BLM moved to consolidate Unique's and Cambrillic's appeals. That motion recently was granted over both appellants' objections.

> taken worth $649,025.00 * * * [for] which [appellant's] #16 claimants are entitled to triple damage under the law. That amounts to $1,947,075.00 of damage to [appellant]. In addition to the removal of [appellant's] property, Levin Stone has caused substantial damage to the quarry by running over and breaking valuable pieces of mineral slabs, and by heaping waste on top of the ore deposits.

(SOR at 3.)

Describing the stone, appellant avers:

> A gold mine is considered highly successful if ½ ounce of gold can be extracted per ton of ore. The cost of gold extraction is excessive in comparison of our "crushed aggregate and decorative stone[,]" which is simple to remove. Much of the material is suitable for art, hobby, and crafts. The unusual characteristics of the stone is in its' [sic] planing, high variety of color, mirror images, polish, jointing & dendrites. The color is the most unique with all colors of the spectrum. The stone exfoliates in smooth even sheets. It has offset color bands where the stone had split, and recemented in the ground leaving unique offset patterns. Stone from other areas often exhibit[s] just one of these unusual qualities, where the Spectrum stone averages 3 to 6 of these unusual qualities. [Appellant states] these minerals are more valuable than most gold mines. Common sand and gravel retails for $6.00 to $8.00 per ton.

(SOR at 5.)

Moreover, Unique asserts that several experts have confirmed that the material is uncommon material,3/ and we agree that

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3/ These reports were submitted in loose leaf form as Exh. 12 to appellant's SOR. We confess some difficulty in ensuring we have separated the reports correctly because they were not stapled,

EXHIBIT A

appellant's expert evidence tends to support the conclusion that the stone is unique, although we reach no conclusion at this juncture as to whether the stone is locatable. We note, however, that the BLM Mineral Reports submitted by Unique demonstrate opposing conclusions regarding whether the stone is locatable, and it appears from the EA that BLM has done nothing further to finally resolve the question. Unique concedes that the existence of the community pit grants BLM a superior right to take "common/nonexclusive materials" from the claim, but contends BLM has no authority to take the uncommon locatable mineral from appellant's claim. Unique emphasizes that BLM did not complete a validity study, and although environmental impact studies were done, correctly notes that there was no assessment of the common and uncommon characteristics of the mineral. BLM has not filed an answer to refute this assertion, but, as noted, the EA acknowledges that the question of whether the stone is a common or uncommon variety is pending. (EA at 2.)

Finally, Unique asserts that Levin Stone is causing irreparable harm:

> In addition to the removal of valuable uncommon material, the mining procedure of Levin Stone has damaged the quarry. The equipment of Levin Stone has broken and destroyed much of the stone by driving equipment over it. It has stacked waste piles on top of valuable deposits. Levin Stone had not taken soil and segregated it into piles for future reclamation.

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consistently separated by blank sheets, tabulated or labeled, and there is some duplication among the various reports. It appears that we have been provided reports authored by Joseph Whelan, Russell Crouse, Crouse and Richard Riordan, John Middleton, several reports by Bert Thomas Clark, and technical information attributed to one Hintze. In addition, appellant has submitted two BLM Mineral Reports dated March 19, 1992, and Oct. 9-10, 1956, and a Supplemental Mineral Report dated Nov. 24, 1958, to which the EA alluded. Appellant would be well-served by submitting a properly assembled and labeled set of the private expert opinions on which it intends to rely.

> BLM has charged Levin Stone $3.00 per ton to reclaim the acres disturbed, which will hardly touch the total cost to reclaim the disturbance. BLM requires $2,000 per acre in bonding to reclaim disturbances. The Levin Stone was allotted to them by Sherri Wysong * * * and Rex Rowley. Levin Stone has paid $1,200.00 when normal reclamation requirements would be $2,000.00 per acre. This would be a shortfall of $6,800 to reclaim 4 acres of disturbed area. [Appellant] is afraid now, of who will be responsible for the completion of the reclamation since there will be a serious shortfall of funds set aside to do so. Since [appellant] has the possessory right to the claim, who will give restitution for the damage?

(SOR at 6.) In support of this argument, Unique states that it has photographs of the Spectrum Quarry taken on September 23, 1999, which show a variety of vegetation, and subsequent photographs taken on March 26, 1999, which show the land stripped of all vegetation. (SOR at 6.) In addition, by letter dated August 11, 2000, appellant advised that it has other photographs and video which show the mining activity on the claim site.

The Materials Act of 1947, 30 U.S.C. § 601 (1994), authorizes the Secretary to prescribe rules for the disposition of mineral materials not subject to disposal under the General Mining laws or other law. Mid-Continent Resources, Inc. (Mid-Continent), 148 IBLA 370, 378-79 (1999). One means of mineral material disposal established by regulation under the Materials Act is the designation of a community pit. 43 C.F.R. § 3604.1. Under that regulation, "the designation of a community pit constitutes a superior right to remove material as against any subsequent claim or entry of the land," and therefore any rights arising from subsequently located claims are subordinate to the community pit. Mid-Continent, 148 IBLA at 379; Robert L. Mendenhall, 127 IBLA 73 (1993), appeal dismissed with prejudice, Civ. No. CV-S-93-912 LDG-LRL (D. Nev. Sept. 17, 1993).

With respect to valid existing rights and unpatented mining claims, 43 C.F.R. § 3601.1 provides:

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(a) Mineral material disposals may not be made by the authorized officer from public lands where:

(1) There are any unpatented mining claims which have not been canceled by appropriate legal proceedings;

(2) Expressly prohibited by law.

Although BLM may not dispose of mineral material from public lands on which there are unpatented mining claims which have not been canceled by appropriate legal proceedings, 43 C.F.R. § 3601.1-1(a), no further proceedings are required when a mining claim is abandoned and void by operation of law for failure to pay the annual rental fee. Mid-Continent, 148 IBLA at 378. See also United States v. Hix, 136 IBLA 377, 380 (1996). According to the EA, the 1958 claims were in good standing until September 1, 1999, when they were held abandoned and void, two years after the pit designation. As Unique located its claims in 1998, we perceive a potential issue regarding whether the pit designation is valid. What little we have before us suggests that BLM may have assumed that the establishment of the community pit authorizes the removal of uncommon and common material. This manifestly is not the case, since a priority neither cancels unpatented mining claims nor effects a withdrawal from operation of the General Mining Law.

Although Unique has failed to carry its burden with respect to the elements of a stay, the Board's authority to decide appeals under 43 C.F.R. § 4.1 necessarily includes the authority to issue appropriate orders, including stays, as may be needed for the proper functioning of the review process. David L. Burton, 11 OHA 117, 120 (1995); see also Carol E. Shaw, 136 IBLA 84, 87-88 (1996). The Board can properly order a stay where the record and the appellant's SOR demonstrate that the standards long applied by the Board -- i.e., those set out in 43 C.F.R. § 4.21(b) -- have been met and a stay is necessary to the proper functioning of the review process. See David L. Burton, supra.

Here, Unique has raised serious and substantial issues which are better suited to a more deliberative resolution in a decision on the merits. Hamilton Watch Co. v. Benrus, 206 F.2d 738, 740

(2nd Cir. 1953), quoted in Placid Oil Co. v. U.S. Department of the Interior, 491 F. Supp. 895, 905 (N.D. Tex. 1980); Sierra Club, 108 IBLA 381, 384-85 (1989). Thus, appellant's SOR raises significant questions regarding whether the proposed sales may in whole or in part include locatable stone under the Building Stone Act. The EA itself casts serious doubt on the nature of the minerals to be found within the pit designation. In addition, we are persuaded that appellant's allegations with respect to the damage caused by the operation of the community pit on the asserted valuable mineral, if true, is both immediate and potentially irreparable in nature. These questions, coupled with BLM's acknowledgment in the EA that the completion of the proposed sale is imminent and the locatability of the stone is unresolved, require a finding that the balance of harms tips decidedly in favor of granting a stay to maintain the status quo, at least until we have received the case file and appellant's proffered evidence. The public interest, we conclude, favors the granting of a stay where to do otherwise would deprive the Board of its ability to afford effective relief, and accordingly, the stay is granted.

Unique is ordered to file its photographs and a properly collated set of expert reports with BLM for placement in the case file within 15 days of receipt of this order. Within 15 days of receipt of this order, Unique and Cambrillic shall serve copies of all their pleadings and supporting evidence or exhibits on each other and on Levin Stone. BLM shall retain the case file for 30 days after receipt of this order to permit all parties time to inspect the entire case file.

Cambrillic shall file its SOR within 45 days of receipt of this order. After receipt of Cambrillic's SOR, Levin Stone's response to the SORs of Cambrillic and Unique will due 30 days later, and BLM's Answer to the parties' SORs and Levin Stone's response shall be due 60 days after receipt of Cambrillic's SOR.

Cambrillic, Unique, and Levin Stone shall file its responses, if any, to BLM's Answer 30 days after receipt thereof. Thereafter, BLM may file a further response, should it desire to do so, 30 days later. The parties are reminded that all pleadings and documents filed with the Board are to be served on

all other parties in these consolidated appeals. 43 C.F.R. § 4.413. Levin Stone has requested expedited consideration of this matter. That request is taken under advisement pending receipt and review of the case file.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, BLM's April 13, 2000, decision is stayed pending receipt and review of the case file and appellant's evidence; Levin Stone's motion to intervene is granted and its request for expedited consideration is taken under advisement; and the parties are directed to comply with the foregoing production and briefing schedule.

T. Britt Price
Administrative Judge

I concur:

James P. Terry
Administrative Judge

APPEARANCES:

Richard Stone
Resident Agent
Unique Minerals Inc.
1359 Park Street
Salt Lake City, UT 84105-2030

David K. Grayson, Esq.
Office of the Field Solicitor
U.S. Department of the Interior
Suite 6201, Federal Building

125 South State Street
Salt Lake City, UT 84138-1180

Jerome Gatto, Agent
Cambrillic Natural Stone, L.L.C.
1730 East 1100 South
Salt Lake City, UT 84105

cc: Rex Rowley
Field Manager
Fillmore Field Office
Bureau of Land Management
35 East 500 North
Fillmore, UT 84631

HISTORY OF APPEALS. ANSWERS AND ORDERS

RESPONDENTS: Arlington, Fillmore, Solicitor, State Director, Levin Stone, CNS and UMI. (6)

Received order 8/29/00 to submit photographs, & properly collated & stapled expert reports with BLM	Submitted geology reports and pictures on 9/24/00
BLM will retain case file for respondents review until November 1, 2000	Rowley is sending original case file 11//1/00, but will retain a copy in Fillmore.
UMI and CNS shall serve copies of all pleadings and supporting evidence/exhibits to the 6 respondents.	Sent motion of Clarification 9/22/00 already sent SOR's on 9/4 & 9/6
Within 45 days of receipt of order, CNS and UMI will submit SORs.	45 days from 8/29 = due on 10/13/00. Order to extend time was for pics/Geo, not SOR's. SOR's sent on 9/4 & 9/6
Levin Stone will file answers to SORs 30 days after receipt of SORs from CNS/UMI.	Levin asnwered SOR's on 9/28/00
BLM will answer CNS/UMI and Levin Stone response in 60 days after receipt of Levin Stone response to SORs	BLM response due 11/27/00
CNS/UMI and Levin Stone will file response to BLM answers in 30 days after receipt of same.	Due 12/27
BLM will have 30 days after receipt of response to file additional answers/commentary if so desired. NOTE: All pleadings & docs filed with Board to be served on all parties.	Due by: 1/26/01

WITHIN 15 DAYS OF RECEIPT OF ORDER:	UNIQUE TO FILE ITS PHOTOGRAPHS AND PROPERLY COLLECTED SET OF EXPERT REPORTS WITH BLM UNIQUE AND CAMBRILLIC SHALL SERVE COPIES OF ALL THEIR PLEADINGS AND SUPPORTING EVIDENCE OR EXHIBITS ON EACH OTHER AND ON LEVIN STONE. **(BLM Shall retain the case file for 30 days after receipt of this order** to permit all parties time to inspect the entire case file)
WITHIN 45 DAYS OF RECEIPT OF ORDER:	CAMBRILLIC SHALL FILE ITS SOR.
DUE 30 DAYS LATER L. STONE RESPONSE TO SORs OF CAMBRILLIC AND UNIQUE This is after receipt of Cambrillic's SOR	LEVIN STONE WILL RESPOND TO SORs OF CAMBRILLIC AND UNIQUE. THIS RESPONSE WILL BE DUE 30 DAYS LATER
DUE 60 DAYS LATER, BLM'S ANSWER	BLM'S ANSWER TO THE PARTIES SORs AND LEVIN STONE'S RESPONSE SHALL BE DUE 60 DAYS AFTER RECEIPT OF CAMBRILLIC'S SOR.
30 DAYS AFTER RECEIPT	CAMBRILIC, UNIQUE AND LEVIN STONE SHLL FILE ITS RESPONSES, IF ANY, TO BLM
30 days later	BLM may file further response, if so desired, 30 days later. NOTE: All pleadings and documents filed with Board are to be servedon all other prties in these consolidated appeals.

EXHIBIT

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PROOF OF SERVICE
APPEALS MOTIONS

APPEAL OR MOTIOI	DATE MAILED	TO WHOM	Cert # or Hand Delivered	Rec'd	NOTES
Motion Object	9/18/2000	Arlington	7099 3400 0015 3679 0427	21-Sep	
Intervention		Rex Rowley	3679 0472	20-Sep	
		Levin Stone	3679 0465	20-Sep	
		State Director, Wisley	H/D	18-Sep	
		Solicitior, Steiger	H/D	18-Sep	
Motion to	9/18/2000	Arlington	7099 3400 0015 3679 0427	21-Sep	
Deny Remand		Rex Rowley	3679 0472	20-Sep	
		Levin Stone	3679 0465	20-Sep	
		State Director, Wisley	H/D	18-Sep	
		Solicitior, Steiger	H/D	18-Sep	
Part I Video,	9/20/2000	Arlington	7099 3400 0015 3679 0373		X
Pictures, Narrative		Rex Rowley	3679 0410	22-Sep	
		Levin Stone	3679 0380	26-Sep	
		State Director, Wisley	3679 0403	21-Sep	
		Solicitior, Steiger	3679 0397	22-Sep	
Part II of II	9/22/2000	Arlington	7000 0520 0024 4497 0824	25-Sep	
Expert Reports		Rex Rowley	4497 0770	25-Sep	
		Levin Stone	4497 0817	26-Sep	
		State Director, Wisley	4497 0794	25-Sep	
		Solicitior, Steiger	4497 0800	25-Sep	
Motion for	9/22/2000	Arlington	7099 3400 0015 3679 0458	25-Sep	
Clarification		Rex Rowley	3679 0441	25-Sep	
		Levin Stone	3679 0434	26-Sep	
		State Director, Wisley	H/D	22-Sep	
		Solicitior, Steiger	H/D	22-Sep	
2nd Request	9/22/2000	Arlington	7099 3400 0015 3679 0458	25-Sep	
to Depose		Rex Rowley	3679 0441	25-Sep	
		Levin Stone	3679 0434	26-Sep	
		State Director, Wisley	H/D	25-Sep	
		Solicitior, Steiger	H/D	22-Sep	
Part II of II	9/28/2000	Arlington	7000 0520 0024 4499 6190	2-Oct	
Pictures final		Rex Rowley	4499 6213	3-Oct	
		Levin Stone	4499 6183	2-Oct	
		State Director, Wisley	4499 6206	2-Oct	
		Solicitior, Steiger	4499 6169	2-Oct	

EXHIBIT

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PROOF OF SERVICE
APPEALS MOTIONS

APPEAL OR MOTIOI	DATE MAILED	TO WHOM	Cert # or Hand Delivered	Rec'd	
Rebuttal Order	10/1/2000	Arlington	7099 3400 0015 3679 0359		X
Reconsideration	10/1/2000	Rex Rowley	3679 0342	3-Oct	
	10/1/2000	Levin Stone	3679 0335	4-Oct	
	10/2/2000	State Director, Wisley	H/D	2-Oct	
	10/2/2000	Solicitior, Steiger	H/D	2-Oct	

(4)

Duly Filed August 29, 2000 **2000- 355 Docket Number**
Appeal from a Decision of a Rex Rowley letter dated July 23, 2000
Regarding Inapplicable restrictions for the mining plan of Appellant
and again a request for Appellant to rescind the Appeal of July 29, 1999.

Comprised of:

13 Pages of Appeal and the Following Separators that include BLM Correspondence to Appellant and is **addressed in this appeal** that substantiates the Appeal, **in the order of pleading in the appeal.**

Namely:

1. October 8, 1996
2. December 27, 1996.
3. April 2, 1997
4. August 26, 1997
5. May 28, 1997.
6. September 26, 1997.
7. November 8, 1997.
8. December 2, 1997.
9. January 8, 1998.
10. February 11, 1998.
11. March 6, 1998
12. April 16, 1998.
13. May 13, 1999.
14. September 1, 1998.
15. December 17, 1998.
16. May 13, 1999.

Exhibit A
Exhibit B
Exhibit C.

(1)

Duly Filed July 29, 1999 No Docket Number
Appeal from a Decision of a Rex Rowley letter dated June 10, 1999 Concerning Purported Record of Noncompliance of Co-Appellant William J. Pappas

Comprised of:

09 Pages of Explaining the Appeal

02 Pages listing the Exhibits of the Appeal

26 Exhibits that substantiates Appeal

(2)

Duly Filed June 4, 2000 Docket 2000-249
Appeal from a Decision of a Rex Rowley Letter dated April 13, 2000 Regarding Illegal Rock Sale by the BLM

Comprised of:

23 Pages Explaining the Appeal

05 Exhibits substantiating the Appeal

05 Labels stating each month January through May 2000 that substantiate this appeal.

Separate Labels stating each year 1995, 1996, 1997 1998, 1999. This data **is not merely BLM policy as the Court suggests but correspondence that supports this appeal.**

Duly Filed August 3, 2000 . In Reply to Solicitor Motion:
Motion to Deny Respondents Request to Consolidate Appeals and to Deny Respondents Request to Dismiss Appeals of Appellant.

Comprised of:

16 Pages of Appeal Exhibits A through I-11 that substantiates Appeal and **detailed separators that included the complete expert testimony that the stone is, without any doubt, UNCOMMON.**

1. Pearson

2. Middleton

3. Whelan

4. Clark

5. Sales

6. Italian Marble

2000

SEPTEMBER 18

MOTION TO DENY BLM MOTION FOR REMAND OF APPELLANTS' APPEAL TO THE UTAH STATE DIRECTOR.

SEPTEMBER 19

MOTION OBJECTING TO THE COURT ORDER OF AUGUST 31, 20000 GRANTING INTERVENTION TO LEVIN STONE INC.

SEPTEMBER 21

MOTION REQUESTING CLARIFICATION FROM THE COURT ORDER REGARDING CAMBRILLIC PRODUCTION OF SOR'S.

SEPTEMBER 22

SECOND REQUEST FOR MOTION TO DEPOSE PARTIES INCIDENT TO THIS MATTER.

OCTOBER 2

REBUTTAL TO LEVIN STONE INC. LETTER OF SEPTEMBER 18, 2000

OCTOBER 2

MOTION FOR RECONSIDERATION OF THE COURT DECISION TO REMAND 2000-355 TO THE STATE DIRECTOR

EXHIBIT tabbies F

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
WARM SPRINGS RESOURCE AREA
Fillmore, Utah 84631

3220
U-502

STAFF REPORT

Title: Building Stone Operation - Antelope Springs, Swazey

Date: 5/23/77

Author: Gerald R. Muhlestein

Thursday, May 19, 1977, I traveled to the open pit building stone site located in SE¼NW¼ Sec. 23, T. 17 S., R. 13 W., SLM. Here I met William J. Pappas. Mr. Pappas is the president of Intermountain Slate Inc., of Salt Lake City. He recently acquired all Clyce Channey's interest in this building stone site. He also said he intended to improve the operation by cleaning up the site, constructing new housing units and also constructing new buildings for production. He intends to have someone live at the site. He was concerned about where he could get water. He presently hauls from the Antelope standpipe. He had filed with the State of Utah a plan of reclamation. I ask if he had recorded his claims with BLM, to which he said they were in the process of so doing.

I explained the new regulations pertaining to mining claims, especially about filing within 90 days of new claims and within three years for established claims. He replied that he had a mining lawyer who was keeping him informed. We discussed the difference between locatable and saleable minerals. No commitment was made as to which this particular stone was but Mr. Pappas did say that he expected to show a profit of $100 a ton and that his geologist said this was the only site known of this type and quality stone. He said he had a good market in California.

He was interested in working with BLM in reducing adverse impacts.

I talked to Jerry Klem of the State Office to discuss this matter. Jim Kohler had studied the situation some two years ago and was of the opinion that the material was saleable. I ask Jerry about this and he suggested that if $100 profit can be shown then the stone is not common, so it would be locatable. I got the feeling from Jerry that we have very little to do with this type mining operation and it would be best if the mineral pattern process was pursued.

Gerald R Muhlestein

CONSERVE AMERICA'S ENERGY

Save Energy and You Serve America!

1999 BLM CALENDAR OF EVENTS

JUNE 10

JUNE 18

JULY 29

SEPT 3

SEPT 14

OCT 27

NOV 15

NOV 18

2000

FEBRUARY 14

MARCH 1 FEBRUARY 23

MARCH 8

MARCH 14

MARCH 15

MARCH 24

MARCH 27

FILM

APRIL 7 MEETING

APRIL 11

APRIL 13

APRIL 13

MAY 7

MAY 7

MAY 12 MEETING

LEGAL CALENDAR 1999 2000
OF CAMBRILLIC NATURAL STONE L.L.C.

LEGAL CALENDAR 1999

Filed Appeal regarding
Record of Non Compliance
July 29, 1999
No Response

LEGAL CALENDAR 2000

APRIL 07
Small Mining Plan filed with
DOGM.

APRIL 11
Letter from Rowley will accept
exploration plan.
Attached 43 CFR 3715

MAY O7
Letter of Gatto to Wysong cannot
rescind appeal **until**
mining plan approved.

MAY 07
Certified letter to
Rowley Notice of Appeal
of his Attached his letter
of April 11, 2000

MAY 12
Personal Meeting in Fillmore with Wysong
in Fillmore Stamped Plan of Operation
Promised would be completed in two weeks.
A gross misrepresentation.

EXHIBIT
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LEGAL CALENDAR 2000

MAY 23
Letter to Pappas from Rowley
regarding Road and Water requirement
for mining plan.

MAY 25
Docket Assignment from Administrative
Law Judge J. L. Byrnes Affording Docket Number
Concerning illegal Rock Sale by the BLM,
UTU-078273 Docket Number **IBLA 2000-249**

MAY 29
Letter to Rowley from Pappas answering
Letter of Rowley dated May 23
CNS will agree to acquiesce
to Road and Water requirements

MAY 30
Letter from Rowley responds to Gatto
instead of Unique regarding Rowley supplied
Unique Address, answering Gatto concerning
Levin Stone Information no permits or bond
required of Levin.

JUNE 1
Letter from Rowley to Pappas
regarding blocking
and drainage and
limit activities to
areas delineated on attached
map. **Attached EA Draft.**

LEGAL CALENDAR 2000

JUNE 3
Letter from Gatto to Rowley explaining
everyone's address reminding
Rowley that Stone asked for
Levin Data **not** Gatto.

JUNE 3
Filed Appeal of Illegal Rock Sale
Certified Mail Four (4)
Three Inch Binders to:
IBLA Arlington, Steiger, Wisely
and Rowley

JUNE 15
Certified Letter to Rowley from Gatto answering
letter of June 1. Cambrillic will comply
with all new modifications. Too long a
wait caused by the Fillmore Field Office
They are stalling us and causing us financial harm.
Again another gross misrepresentation.

JUNE 22
Solicitor files Motion
Request for Extension of Time for the BLM.

JUNE 23
Regular letter to Pappas from Majean
Christensen acting Field Manager Fillmore
Field Office. Fillmore should sign our mining plan by early next
week. Then we need to go to DOGM for reclamation
bond. **Again a gross misrepresentation.**

LEGAL CALENDAR 2000

JUNE 26
CNS Files Motion
Motion to Deny Request
for Extension of Time of the BLM

JULY 5
Order from T. Britt Price
Administrative Law Judge
Grants BLM Motion
for Extension of Time
Judge dated order incorrectly
states June 5 should be July 5

JULY 7
Letter to Pappas from
Rowley included Approved EA
"contingent upon mitigation
specified in EA."
Bond, Escrow, Rescind Appeal.
The 3rd extortionist tactic by BLM.

JULY 20

Solicitor Motion received, titled.
"Request for Consolidation of
Appeals and Answer of the Bureau
of Land Management to Appellant's
Appeals."

LEGAL CALENDAR 2000

JULY 24
Sent Fax to Judge Price
requesting extension to answer Solicitor
until August 8, 2000.

AUGUST 1
Filed Notice of Appeal
concerning above letter
of July 7 from Mr. Rowley

AUGUST 3
Filed 4 (Four) 2 inch binders
Rebuttal titled: "Motion to Deny Respondents Request to Consolidate Appeals and to Deny Respondents Request to Dismiss Appeals of Appellant." 2 copies under this separator.

August 6
Richard Stone, Gerald McCurdy
visited Quarry found the devastation
caused by Levin Stone, and possibly
BLM

August 17
Maintenance Fees Paid in full for
all 10 Claims 200 Acres

August 22
Recorded all Claims with necessary
fees with the County Recorder in Fillmore

LEGAL CALENDAR

AUGUST 28
Filed Appeal of Rowley Letter
of July 7, 2000 (Two) 2 Inch Binders
To all parties

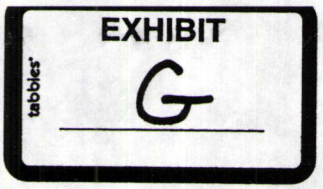
AUGUST 29 1ST IBLA RULING
Received Order from IBLA
Via Facsimile from Stone 11
Pages. Hard Copy Received Gatto
Via Fed Ex. September 1, 2000.
Not Accepted at Cambrillic Office, power outage

"Stay Granted Motion to Intervene Granted;
Request for Expedited Consideration
Taken under Advisement: Production and
Briefing Schedule Established."

AUGUST 31 2ND IBLA RULING

"Motion for
Consolidation Granted"
by IBLA over the objection
of Appellant. So noted in the Order.

SEPTEMBER 4
Filed Motion for Extension
of time until October 1, 2000
regarding time to file photographs
and a properly collated set of Expert
Reports pleading and supporting evidence
or Exhibits.



LEGAL CALENDAR

SEPTEMBER 7
Quarry Visit with Stone, procuring
new photographs for IBLA.

SEPTEMBER 8
Received September 11, 2000 Solicitor Motion of the Bureau of Land Management for Remand of Appellant's Appeal to the Utah State Director

September 12
Letter from Rowley to Unique
resembles a court filing.
Filed Motion objecting to Rowley
Circumventing the Appellants.

SEPTEMBER 13
RECEIVED NOTIFICATION FROM IBLA THAT THE ROWLEY APPEAL HAS BEEN ASSIGNED DOCKET NUMBER 2000-355

September 18, 2000
Levin Stone letter to Court
objecting to production scale
and affording improper comments
on the conditions of the stone.
Court treated it as motion, so
we rebutted.

September 18, 2000
Rowley letter to Unique Minerals.

LEGAL CALENDAR

SEPTEMBER 18
FILED OUR MOTION
OBJECTING TO THE COURT ORDER
OF AUGUST 31, 2000 GRANTING
INTERVENTION TO LEVIN STONE INC.

FILED SIMULTANEOUSLY

SEPTEMBER 18
FILED OUR MOTION TO DENY
BUREAU OF LAND MANAGEMENT MOTION
FOR REMAND OF APPELLANTS' APPEAL
TO THE STATE DIRECTOR

SEPTEMBER 21
FILED PART I EXHIBIT
WITH VIDEO, NARRATIVE, PICTURES
AND 2 PAGE MOTION IN COMPLIANCE
WITH COURT ORDER

SEPTEMBER 22
FILED PART II, EXHIBIT WITH
MOTION AND ONE INCH BINDER
WITH ALL EXPERT REPORTS IN
COMPLIANCE WITH COURT ORDER

SEPTEMBER 22
01 FILED MOTION FOR CLARIFICATION

FILED SIMULTANEOUSLY

02 FILED **SECOND**

MOTION REQUESTING
TO DEPOSE ADVERSE PARTIES

LEGAL CALENDAR

SEPTEMBER 25, 2000
Received copy of letter
from Rowley to the IBLA
Dated September 22

SEPTEMBER 27, 2000 **3RD IBLA RULING**
RECEIVED IBLA RULING
REMANDING DOCKET 355 BACK
TO STATE DIRECTOR DATED
SEPTEMBER 21, 2000

SEPTEMBER 28, 2000
Sent Certified Mail
Motion Part II of II
last portion of Order pictures
of before and after
devastation.

OCTOBER 2, 2000

Sent Certified Arlington, Fillmore, Levin Stone

then served personally
Solicitor and Wisely

01 Rebuttal to Levin Stone Letter
of September 18, 2000

FILED SIMULTANEOUSLY

02 Motion for Reconsideration of the
Court Decision to remand 2000-355
back to the State Director, of September 21

LEGAL CALENDAR

OCTOBER 18, 2000
Stone Trip to Quarry
conversation with Wysong
at Quarry Site.

OCTOBER 20

Filed and Paid for Proof of Labor
on all 200 acres.

OCTOBER 20
Letter from Marjean Christiansen
BLM to Richard Stone sent him
McClarty Stone requested from Wysong.

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE
35 East 500 North
Fillmore, UT 84631
http://ecblm.blm.interwebdesign.com

EXHIBIT
H
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IN REPLY REFER TO:
3800
(U-010)
UTU-075890

April 11, 2000

JEROME GATTO
230 E BROADWAY
SALT LAKE CITY UT 84111

Dear Mr. Gatto:

Thank you for meeting with Sheri Wysong, John Steiger and Terry Snyder on April 7, 2000. As discussed in the conference, we are writing to summarize the agreements arrived upon during the discussion.

We agreed to accept a notice for mineral exploration activity on the grandfathered mining claims, Billy Boy and Helen #1-3, Billy Boy #4 and Jerry G's #1-3, provided the notice is accompanied by a bond in an amount sufficient to reclaim the proposed disturbance. Once exploration activity is completed, you agreed to submit a plan of operations. The plan of operations will include the reclamation where the old mobile homes and shop of Baron Trading were located. This plan of operations will be accompanied by a 100 percent reclamation bond and an escrow account will be established. The escrow account is required because we contend that the material is common variety; therefore, an escrow account is required for any materials removed under the plan of operations until a validity exam can be completed.

Please be advised that the plan of operations may include a watchman's quarters. However, any occupancy of this site will have to meet the 43 CFR 3715 regulations. A copy of these regulations is enclosed for your information.

In addition, you agreed to rescind your appeal of our June 10, 1999 decision to reject Mr. Pappas' notice to mine on the Billy Boy and Helen #3 and the Billy Boy #4. Mr. Pappas' record of noncompliance will stand since Mr. Pappas did not file an appeal of the August 27, 1997 notice of noncompliance (NON). This record of noncompliance was established for failure to reclaim

EXHIBIT H

approximately 6 acres of disturbance created while Mr. Pappas was the operator for Baron Trading. The majority of this unreclaimed disturbance has been redisturbed by another operator and therefore does not require reclamation. However, the area where the mobile homes and shop were situated still requires cleanup, recontouring and revegetation. Per our agreement, inclusion of this area in your plan of operations and completion of this outstanding reclamation work will allow Mr. Pappas' record of noncompliance to commence. We are recommending that the duration of Mr. Pappas' record of noncompliance be two years.

If you have any questions, please call Sheri Wysong at (435) 743-3124. We look forward to working with you.

Sincerely,

Rex Rowley

Rex Rowley
Field Manager

Enclosures
3715 Regulations

cc: D. Wayne Hedberg, UDOGM (S/027/079)
William Pappas, 1730 S 1100 E, SLC, Ut 84105

UNITED STATES
'ARTMENT OF THE INTERIOR
UREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE
35 East 500 North
Fillmore, Utah 84631
OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, $300

WILLIAM PAPPAS
1730 S 1100 E
SALT LAKE CITY UT 84105

8410543424

ROBERT F. BENNETT
UTAH

COMMITTEES:
APPROPRIATIONS
BANKING, HOUSING, AND URBAN AFFAIRS
JOINT ECONOMIC
SMALL BUSINESS

United States Senate

WASHINGTON, DC 20510-4403
(202) 224-5444

STATE OFFICES:

- WALLACE BENNETT FEDERAL BUILDING
125 SOUTH STATE, SUITE 4225
SALT LAKE CITY, UT 84138-1188
(801) 524-5933
- FEDERAL BUILDING
324 25TH STREET, SUITE 1410
OGDEN, UT 84401-2310
(801) 625-5676
- OLO COURT HOUSE BUILDING
51 SOUTH UNIVERSITY AVENUE, SUITE
PROVO, UT 84601-4424
(801) 379-2525
- FEDERAL BUILDING
196 EAST TABERNACLE, SUITE 42
ST. GEORGE, UT 84770-3474
(801) 628-5514
- FEDERAL BUILDING
82 NORTH 100 EAST, SUITE 200
CEDAR CITY, UT 84720-2685
(801) 865-1335

EXHIBIT
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I

January 9, 1997

Bill Lamb
State Director
Bureau of Land Management
PO Box 45155
Salt Lake City, Utah 84145-0155

Dear Mr. Lamb:

I received a letter from Mr. Clyde Cheney requesting my assistance in a matter involving the Bureau of Land Management. A copy of his letter is enclosed.

In 195, Mr. Cheney and his father discovered a stone which they believed to be a marketable material. Knowing that the stone was on public land, they contacted the Bureau of Land Management to begin the process of receiving the proper authorization to mine the material. Mr. Cheney filed an application with the BLM to purchase the stone. This application was subsequently denied on grounds that the stone in question was locatable under the mining laws. In order to mine the material, Mr. Cheney would have to establish a claim. At that time, Mr. Cheney followed the guidelines of the law for establishing a mining claim and established the *Spectrum Claims*. Mr. Cheney said that for the past thirty years he has worked the claim and paid the requisite fees.

It is my understanding that Mr. Cheney has now been notified by the BLM that the material he has been mining is not locatable. Apparently, he has been notified that continued mining will place him in violation of the law and that he must now purchase the material.

Mr. Cheney has provided me with a copy of a 1958 BLM Mineral Report concerning his application to purchase the material in question. (I have enclosed a copy of this document for your review.) In this report, Mr. Eugene W. Pearson, Mining Valuation Engineer, states that Mr. Cheney's application to purchase should be rejected because he believed the stone to be locatable under the mining law. Like Mr. Cheney, I am somewhat confused by what has happened in this situation. It certainly appears as if the rules have been changed in the middle of the game for Mr. Cheney. I would greatly appreciate your looking into this situation and providing me with an explanation of this matter.

If you have any questions, please contact Brad Shafer in my Provo office.

Sincerely,

Robert F. Bennett

ROBERT F. BENNETT
United States Senator

RFB:bcs

Enclosures (2)